

## Chapter 3.08

### TRANSIENT OCCUPANCY TAX

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#### **3.08.010 Title.**

This chapter shall be known as the "Uniform Transient Occupancy Tax Ordinance of the county of San Luis Obispo." (~~Ord. 785 § 1 (part), 1965: prior code § 8-015~~)

#### **3.08.015 Applicability.**

This chapter shall apply to all hotels, as defined in section 3.08.020, in the unincorporated areas of San Luis Obispo County.

### **3.08.020 Definitions.**

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

(1) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, cabin, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof.

(2) "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

(3) "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his their functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his their principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(4) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(5) "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction ~~therefrom whatsoever~~. Rent includes, but is not limited to, fees, such as resort fees, cleaning fees, pet fees, roll-away bed fees, energy fees, or miscellaneous fees and non-refundable deposits (including reservation fees) charged as a condition of occupying a room or rooms.

(6) "Tax administrator" means the county tax collector.

(7) "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. ~~In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to March 2, 1965 may be considered. (Ord. 785 § 1 (part), 1965; prior code § 8-016)~~

### **3.08.030 Tax imposed.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of six nine percent of the rent charged by the operator. ~~The amount of said tax shall be six percent of the rent charged by the operator until 12:01 a.m.,~~

~~October 1, 1991, and thereafter, the amount of said tax shall be nine percent of the rent charged by the operator.~~ Said tax constitutes a debt owed by the transient to the county which is extinguished only by payment to the operator or to the county.

- (a) The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.
- (b) Any tax imposed by this chapter which is itemized on the guest receipt shall be remitted to the county. The amount allocated to room rental rates, number of rooms rented, tax, and products or services shall be readily identifiable in the operator's accounting records. The allocation to non-rent items shall not exceed the prices normally charged for those items.
- (c) Any operator offering a package rate must separately identify on the guest receipt the room portion of the package rate, the transient occupancy tax applicable to the room portion of the package rate, the non-room portion of the package rate, and any transaction and use tax (sales tax) on the non-room portion of the package rate. The operator shall bear the burden of proving that the allocation of taxes between the room portion and the non-room portion of the package rate was properly made and that the proper amounts of taxes were collected and remitted to the appropriate agencies. Allocation of room rents from the package amount shall not be below prevailing room rates for the same area as determined by the tax administrator.

~~(Ord. 2503 § 1, 1991; Ord. 1515 § 1 (part), 1975; Ord. 1000 § 1, 1968; Ord. 997 § 1, 1968; Ord. 785 § 1 (part), 1965; prior code § 8-017)~~

### **3.08.040 Exemptions.**

No tax shall be imposed upon:

- (1) Any person as to whom, or any occupancy as to which, it is beyond the power of the county to impose the tax herein provided;
- (2) Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.
- (3) Employees of Federal Credit Unions while on official credit union business. This exemption shall apply only to those credit unions organized and operating under the Federal Credit Union Act.
- (4) Any person for whom emergency housing is provided pursuant to a voucher issued by a non-profit tax exempt agency or organization during times of natural disaster or calamity.
- (5) Complimentary rooms provided for purposes of advertising or public relations, provided that no non-cash material consideration is given to the operator for use of the rooms.
- (6) The non-room portion of a package plan, if the non-room portion of the package plan is separately listed in detail on the receipt. Failure to separately list the

non-room portion of the package plan, including and sales or use tax paid, may result in additional tax, penalties, and interest being due.

No exemption shall be granted ~~except upon a claim therefor made~~ unless the Transient Occupancy Tax Exemption Form is completed at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (~~Ord. 815 § 1 (part), 1965: Ord. 785 § 1 (part), 1965: prior code § 8-018~~)

### **3.08.050 Operator's duties.**

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. (~~Ord. 785 § 1 (part), 1965: prior code § 8-019~~)

### **3.08.055 Tax held in trust.**

Every operator shall hold in trust for the account of the county, until payment thereof is made to the tax administrator, all taxes collected by such operator.

### **3.08.060 Registration.**

Within thirty days after ~~March 2, 1965, or within thirty days after~~ commencing business, ~~whichever is later,~~ each operator of any hotel renting occupancy to transients shall register the hotel with the tax administrator and obtain from him a "transient occupancy registration certificate" County Business License with the Authority to Collect Transient Occupancy Tax (hereinafter referred to as "Authority to Collect") to be at all times posted in a conspicuous place on the premises. The ~~certificate~~ Authority to Collect shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the hotel;
- (3) The date upon which the ~~certificate~~ Authority to Collect was issued;
- (4) "This ~~Transient Occupancy Registration Certificate~~ San Luis Obispo County

Business License signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the ~~tax administrator~~ tax administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the tax administrator. This ~~certificate~~ Authority to Collect does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this county. This ~~certificate~~ Authority to Collect does not constitute a permit." (~~Ord. 785 § 1 (part), 1965: prior code § 8-020~~)

### **3.08.070 Reporting and remitting.**

The tax administrator shall establish a reporting period for each ~~certificate holder~~ operator holding an Authority to Collect. No reporting period shall be greater than one year. Each operator whose reporting period is one month or longer shall, on or before the last day of the month following the close of the reporting period, make a return to the tax administrator on forms provided by the tax administrator of the total rents charged and received and the amount of tax collected for transient occupancies. Each operator whose reporting period is established at less than one month shall make the return to the tax administrator within three days after the close of the period. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. If it is deemed to be in the best interest of the county, the tax administrator may require the operator to report and remit any taxes due by electronic means. Any additional information which the tax administrator may deem necessary in order to insure collections shall be included with the return. Returns and payments are due immediately upon cessation of business for any reason<sup>7.2</sup>. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the county until payment thereof is made to the tax administrator. (~~Ord. 1534 § 1, 1975; Ord. 785 § 1 (part), 1965; prior code § 8-021~~)

### **3.08.072 Deposits.**

At the option of the tax administrator, a deposit may be required prior to ~~issuance of a transient occupancy registration certificate,~~ the operator being issued an Authority to Collect. The tax administrator may also require a deposit of any ~~certificate holder~~ operator previously issued an Authority to Collect whenever it is deemed such a deposit is in the best interest of the county. The amount of the deposit will be established by the tax administrator. It shall be grounds for refusal to issue an Authority to Collect, or to revoke a previously issued Authority to Collect, if an operator does not make a required deposit. (~~Ord. 1534 § 2, 1975~~)

### **3.08.075 Separate account required.**

If it is deemed to be in the best interest of the county, the tax administrator may require the operator to deposit all taxes collected into a separate depository bank account, solely for the benefit of the county.

- (a) It shall be the responsibility of the operator to pay any fees assessed to the account.
- (b) The operator shall make a monthly reporting and reconciliation to the tax administrator.
- (c) Withdrawals shall be limited to payment of any required Transient Occupancy Tax and be made in a manner approved by the tax administrator.
- (d) Any refund of paid taxes will require approval of the tax administrator and shall be issued according to the provisions of section 3.08.120 of this chapter.

### **3.08.080 Penalties and interest.**

(a) ~~ORIGINAL DELINQUENCY~~ Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

(b) ~~CONTINUED DELINQUENCY~~ Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.

(c) ~~FRAUD~~ Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (a) and (b).

(d) ~~INTEREST~~ Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) ~~PENALTIES MERGED WITH TAX~~ Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid. (~~Ord. 785 § 1 (part), 1965; prior code § 8-022~~)

### **3.08.090 Failure to collect and report tax.**

If any operator fails or refuses to collect said tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax administrator shall proceed ~~in such manner as he may deem best~~ to obtain facts and information on which to base ~~his~~ an estimate of the tax due. As soon as the tax administrator procures such facts and information ~~as he is able to obtain upon which needed~~ to base the ~~assessment estimate~~ of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, ~~he~~ the tax administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, ~~postage prepaid~~, addressed to the operator so assessed at ~~his last known place of address~~ the last known mailing address provided by the operator. The operator may within ten days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for the tax, interest and penalties. At such hearing, the operator may appear and offer evidence why the specified tax interest and penalties should not be so fixed. After the hearing the tax administrator shall determine the proper

tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in section 3.08.100. reconsideration is requested as provided in section 3.08.095.

### **3.08.095 Reconsideration by the tax administrator.**

Any operator aggrieved by any decision of the tax administrator with respect to any section of this chapter, may request a reconsideration hearing by the tax administrator. A reconsideration hearing shall be held by the tax administrator or, at the sole discretion of the tax administrator, by a hearing officer appointed by the tax administrator. Upon receiving the request for reconsideration, the tax administrator shall schedule a date, time and place for a hearing on the reconsideration, and give the operator, by certified mail, at least ten (10) days notice of the date, time and place of the hearing. The decision of the tax administrator (or hearing officer) shall be final unless appealed to the board of supervisors pursuant to section 3.08.100 of this chapter.

### **3.08.100 Appeal.**

Any operator aggrieved by any decision of the tax administrator with respect to the amount of the tax, interest and penalties, if any, any section of this chapter may, after requesting reconsideration by and having the matter heard by the tax administrator (or hearing officer), appeal the decision of the tax administrator (or hearing officer) to the board of supervisors by filing a notice of appeal, with the county clerk within fifteen days of the serving or mailing of the determination of tax due. The board of supervisors shall fix a time and place for hearing the appeal, and the county clerk shall give notice in writing to such operator at his last known place of address.

(a) An appeal shall be filed with the clerk of the board of supervisors within fourteen (14) days after the date of the decision of the tax administrator explaining the reasons for the appeal;

(b) The subject matter of the appeal shall be limited to those issues previously submitted to the tax administrator under section 3.08.095 of this chapter. Any subject matter not previously submitted for reconsideration by the tax administrator shall be ineligible for appeal to the board of supervisors;

(c) Upon receipt of the appeal, the clerk shall schedule a date, time and place for a hearing before the board of supervisors, and give the appellant, by certified mail, at least ten (10) days notice of the date, time and place of the hearing;

(d) The clerk shall also give the tax administrator at least ten (10) days notice of the date, time and place of the hearing. Notice to the tax administrator may be served on the tax administrator by United States Postal Service, by independent mailing service, or by interoffice messenger whichever is more cost effective;

(e) The findings of the board of supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the decision. (Ord. 785 § 1 (part), 1965: prior code § 8-024)

### **3.08.110 Records.**

It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax for which payment was required. ~~as he may have been liable for the collection of and payment to the county, which records.~~ The ~~tax~~ **Administrator** or an auditor of the county shall have the right to inspect these records at all reasonable times. (~~Ord. 785 § 1 (part), 1965: prior code § 8-025~~)

### **3.08.120 Refunds.**

(a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the county under this chapter it may be refunded as provided in subsections (b) and (c) provided a claim in writing ~~therefor~~, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within one hundred days of the date of payment. ~~The claim shall be on forms furnished by the tax administrator.~~

~~(b)~~ An operator may claim a refund or take as a credit against taxes to be collected and remitted the amount overpaid, paid more than once or erroneously paid when it is established in a manner prescribed by the tax administrator that the operator from whom the tax has been paid has not collected that amount of tax and has committed an error in reporting.

~~(bc)~~ An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

~~(ed)~~ A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the county by filing a claim in the manner provided in subsection (a), but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

~~(de)~~ No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (~~Ord. 2503 § 2, 1991: Ord. 785 § 1 (part), 1965: prior code § 8-026~~)

### **3.08.130 Actions to collect.**

(a) Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the county. Any such tax collected by an operator which has not been paid to the county shall be deemed a debt owed by the operator to the county. Any person owing money to the county under the



provisions of this chapter shall be liable to an action brought in the name of the county for the recovery of such amount.

(b) Recording a Certificate of Lien: If any amount required to be paid to the county under this chapter is not paid when due, the tax administrator may, within three (3) years after the amount is due file for recording in the office of the county clerk-recorder a certificate of lien specifying the amount of tax, penalties and interest due, and the name and address of the operator as it appears on the records of tax administrator. The lien shall also specify that the tax administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties and interest thereon, constitutes a lien upon all real property in the county owned by the operator or subsequently acquired by the operator before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from filing of the certificate unless sooner released or otherwise discharged.

(c) Warrant for Collection of Tax: At any time within three (3) years after any operator is delinquent in the payment of any amount herein required to be paid or within three (3) years after the last recording of a certificate of lien under subsection (b) of section 3.08.130, the tax administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the county under this chapter. The warrant shall be directed to any sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The tax administrator may pay or advance to the sheriff, the same fees, commissions, and expenses for service provided by law for similar services pursuant to a writ of execution. The tax administrator shall approve the fees for publication in the newspaper.

(d) Seizure and Sale: At any time within three (3) years after recording a lien against any operator, if the lien is not discharged and released in full, the tax administrator may forthwith seize any asset or property, real or personal (including bank account), of the operator and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the operator subject to seizure and sale subject to this chapter shall not include any assets or property which is exempt from execution under the provisions of the California Code of Civil Procedure.

(e) Actual Collection Costs: If any amount required to be paid to the county under this chapter is not paid when due, the tax administrator may collect actual costs of collection incurred by the county, as specified under "Unsecured Delinquent Collections" in the County Fee Schedule, in addition to the penalties and interest imposed on delinquencies by this chapter.

(f) Audits: Delinquencies in reporting or remitting taxes may result in an audit by the tax administrator or an auditor of the county when the tax administrator deems that such an audit would be in the best interest of the county. The actual cost of an audit under this section may be collected by the tax administrator.

(g) Habitual Delinquencies: If an operator fails to report or remit when taxes are due more than twice in a twelve month period, the operator shall be considered a habitual delinquent. A habitual delinquent operator may be required to submit a deposit

as specified in section 3.08.072 of this chapter in order to retain the Authority to Collect when the tax administrator deems it to be in the best interest of the county. Failure to submit a deposit when required under this chapter may result in the revocation of the Authority to Collect issued by the tax administrator.

### **3.08.135 Suspension and/or revocation.**

(a) Whenever any operator fails to report or remit any taxes collected in accordance with any provision of this chapter, the tax administrator may immediately suspend the Authority to Collect issued to the operator. The tax administrator shall give to the operator written notice of the suspension and notice of the tax administrator's intention to revoke the Authority to Collect. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. During the time period in which the Authority to Collect has been suspended it will be necessary for the operator to cease business.

(b) Whenever any operator fails to comply with any provision of this chapter relating to occupancy tax or any rule or regulation of the tax administrator relating to occupancy tax prescribed and adopted under this chapter, the tax administrator upon hearing, after giving the operator ten days notice in writing specifying the time and place of hearing and requiring the operator to show cause why the Authority to Collect should not be revoked, may revoke the Authority to Collect issued to the operator. The tax administrator shall give to the operator written notice of the revocation. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. Upon issuance of written notice of revocation, the Authority to Collect shall be considered revoked, with no further action necessary. The tax administrator shall not issue a new Authority to Collect after the revocation unless satisfied that the former operator holding the Authority to Collect will comply with the provisions of this chapter relating to the occupancy tax and regulations of the tax administrator. During the time period in which the Authority to Collect has been revoked it will be necessary for the operator to cease business.

(c) No other Authority to Collect shall be issued to the person or business entity whose Authority to Collect has been revoked within six months from the date of the revocation.

(d) Whenever it is necessary for the tax administrator to revoke the Authority to Collect, the Business License shall be revoked concurrently.

(e) If an operator continues to collect Transient Occupancy Tax after suspension or revocation of the Authority to Collect, those taxes must be remitted to the county immediately.

### **3.08.140 Violations--Misdemeanor.**

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable therefore as provided in section 1.04.010 of Title

~~1 of this Code. by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period of not more than six months or by both such fine and imprisonment. Each such person is guilty of a separate offense for every day during any portion of which any violation of any of the provisions of this chapter or of any such regulation is committed, continued, or permitted by such person, and shall be punished for each separate offense as provided by chapter 1.04 of Title 1 of this Code. Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid. (Ord. 785 § 1 (part), 1965: prior code § 8-028)~~

### **3.08.150 Liability of successor – Withholding by purchaser.**

If any operator liable for any amount under this chapter sells or quits the business and ceases as operator of the hotel, whether or not the cessation of business is voluntary or involuntary, the former operator's successor or assign, including any purchaser at a foreclosure sale, shall withhold a sufficient amount of the purchase price to cover any outstanding amount owed pursuant to this chapter until the former owner or operator produces a receipt from the tax administrator showing that all outstanding amounts have been paid, or a certificate stating that no amount is due.

(a) If the purchaser of a business fails to withhold tax from purchase price as required by section 3.08.150, the purchaser shall be personally liable for the payment of the amount required to be withheld to the extent of the purchase price, valued in money.

(b) Within thirty days after receiving a written request from the purchaser for issuance of an Authority to Collect, the tax administrator shall either issue the Authority to Collect or mail notice to the purchaser, at the address as it appears on the records of the tax administrator, of the amount that must be paid as a condition of issuing the Authority to Collect.

(c) The time within which the obligation of a successor may be liable shall begin at the time the operator sells a business or at the time that the determination against the operator becomes final, whichever event occurs later.

### **3.08.160 Determination of successor's liability by tax administrator – Withholding by purchaser, escrow company or bankruptcy trustee.**

If any operator fails in their duty under section 3.08.150, upon the cessation of business by hotel operator, the tax administrator shall estimate the potential transient occupancy tax, penalties and interest to be due, and such total amount due shall be withheld from the purchaser, escrow company, or bankruptcy trustee from the purchase price of the hotel, and remitted to the tax administrator immediately upon the close of escrow or completion of sale.